

LIVING IN AN HOA OR COMMON INTEREST DEVELOPMENT

If you live in a homeowners association (HOA), you are in good company. HOAs are the fastest growing form of housing today. More than 70 million Americans reside in over 344,500 homeowners associations and that number is expected to continue to grow exponentially. According to *Public Opinion Strategies*, more than 90 percent of residents who live in HOAs rate their overall experience as positive. However, living in an HOA requires a certain level of understanding by residents. This brochure will provide you with basic information about HOAs, including their purpose, what they govern and how they function. On the back cover, there is space for you to fill in your community's important contacts. We have also provided contact numbers for key Coachella Valley services.

ABOUT COMMUNITY ASSOCIATIONS

In California, planned developments, condominium projects, cooperatives and other planned communities are all called **common interest developments** or CIDs. You know them as HOAs because most CIDs are managed by a homeowners association. CIDs are formed any time homeowners share real property or assets in common like roads, pools, parks, tennis courts, golf courses and country clubs. Twenty-five percent of the U.S. population already live in CIDs and that number is expected to double in the next ten years. In California, there are currently 50,000 associations with property values exceeding \$700 billion. The percent of Coachella Valley residents who reside in a CID far exceeds the national average. The City of Palm Desert estimates 80 percent of their residents live in a CID.

PRIMARY PURPOSE OF CIDS

CIDs share a few essential goals:

- Preserving the nature and character of the community
- Providing services and amenities to residents
- Protecting property values
- Meeting the established expectations of owners.

There are many benefits to living in a CID. CIDs offer a range of amenities and services to their residents. Some services were once the exclusive province of local municipalities. This transfer or privatization of services has become commonplace and many municipalities now encourage developers to form CIDs for this purpose. Builders put the association in place while the community is being built. During the early stages of construction and sales, builders manage these services and the CID, but eventually the obligation falls to the homeowners. There are other benefits to community associations other than providing services. CIDs also extend some degree of protection against neighborhood degradation and deterioration cars on cinder blocks, dilapidated homes or yards that are not maintained. This requires creating reasonable community standards and enforcing equitable and consistent rules.

COMMON CHARACTERISTICS OF ASSOCIATIONS

Regardless of the type of association you live in, there are three characteristics of all common interest developments:

- Homeowners share ownership of common land and amenities such as swimming pools.
- Homeowners automatically become a member of a community association with all other homeowners and, as such, must abide by association rules.

- Homeowners pay an assessment that is used to maintain the common areas or provide services such as professional management.

GOVERNING DOCUMENTS

The legal documents that establish a community association, govern its operation, and provide rules for using the association property are called the governing documents. The following governing documents are in order of their authority:

- **Covenants, Conditions, and Restrictions (CC&Rs)**
 - The Covenants, Conditions, and Restrictions detail each owner's property rights, the restrictions on use of the property, and the owner's rights and responsibilities in the association.
- **Articles of Incorporation**
 - Articles of Incorporation establish the association as a corporation and describe its purpose, structure, and powers.
- **Bylaws**
 - Bylaws establish rules for the operation of the association such as meeting requirements, election procedures, and duties of the officers, board, and committees.
- **Rules & Regulations**
 - For a group of people to share property peacefully and profitably, they must agree to a common set of rules. Establishing and enforcing these rules preserve both the value of the property and the quality of life in the community. They're designed to make sharing property convenient and fair for all.

The documents listed above are available on the PDCCA website www.PDCCA.com

ENFORCEMENT

The association has the legal power of enforcement and should use it consistently and effectively. Rules for pets, swimming pools, parking, noise, and home-based businesses are examples of areas that are usually covered in the CC&Rs and Rules & Regulations. When rules are broken, usually a friendly word or simple written reminder from the manager or an association officer will correct a problem. But, when stronger measures are needed, boards can suspend privileges or impose fines. Without proper enforcement, these documents accomplish little. CIDs also have legal authority related to collecting assessments.

Associations, in fact, have an obligation to all members to collect assessments to pay for the maintenance and replacement of common area components.

CIDS ARE GOVERNED BY NEIGHBORS

The typical CID is governed by a board of homeowner volunteers who are elected by their fellow owners to set policy. Homeowner involvement is essential, whether a community is self-managed or professionally managed. There are many opportunities to get involved, from leading a specific project to chairing a committee to running for a seat on the board. ***There is usually a correlation between the level of homeowner involvement and the long-term success of a community.***

- **The Board of Directors**
 - Association members (the owners) elect a board that sets policy and directs the affairs of the community. The elected board members appoint or elect officers (usually a president, treasurer, and secretary) among themselves. Board

members are entrusted with fiduciary responsibility for the association. California state statutes empower duly elected board members with the necessary authority to carry out their duties. Board and committee members normally serve the community on a voluntary basis. Boards rely on help and advice from skilled professionals like community association managers, attorneys with expertise in community association law, and certified public accountants who understand the unique financial and legal needs of community associations.

- **Board Meetings**
 - The business of the association takes place at board meetings. This is where important issues are discussed, and decisions are made. You should attend board meetings to get a sense of how the association is functioning and ask for more information after the meeting if you have questions. Associations are required to set aside time at board meetings when residents can ask questions. Sometimes called a homeowners' open forum, this time allows residents to bring an issue to the attention of the board.
- **Elections**
 - Most associations conduct board elections annually. Terms are usually staggered so that only a few members change from year to year. All members of the association should learn about the candidates and vote in each election.
- **Committees**
 - Most CC&Rs require the establishment of at least one committee, the design review or architectural committee. This committee generally specifies parameters for paint colors, fences, decks, window treatments, and other exterior features. This isn't intended to stifle individual creativity, but rather it ensures the integrity of the original community design. It also protects you from situations such as a neighbor erecting an unattractive shed using a garish paint color. The architectural committee typically develops and distributes architectural guidelines, reviews and approves submitted plans, and maintains aesthetic standards. It's important for all owners to be familiar with the association's architectural standards and work with the committee when making any exterior changes to their homes. Residents will also want to make sure they adhere to city and county regulations and requirements. Your association may have additional committees including a nominating committee to oversee elections, or a social or welcome committee to build community spirit. The board may also appoint committees of members to help with finance, communications, maintenance and recreation.

COMMUNITY ASSOCIATION MANAGEMENT

Efficient community management helps maintain property values and enhance the quality of life in the community. Management carries out the policies set by the board and works at the board's direction.

Professional Management

Professional community association management generally offers the most expertise and the least worry for the board and owners. Associations can ensure they're getting the most highly qualified management by hiring professionals who have been certified in the industry. Look for the following credentials:

- Certified Manager of Community Associations (CMCA)
- Certified Community Association Manager (CCAM)

- Certified Common Interest Development Manager (CCIDM)
- Association Management Specialist (AMS)
- Professional Community Association Manager (PCAM)
- Large Scale Manager (LSM)

Regardless of who professionally manages the association, the board is ultimately responsible for overseeing all operations and governance.

THE ASSOCIATION AS A BUSINESS, GOVERNMENT, AND COMMUNITY

A community association is a unique organization that encompasses aspects of business and government, while also existing as a community. It's important that associations operate as smoothly and efficiently as possible in each of these areas.

How is a community association like a business?

- Community associations are big business. Owner assessments in many associations amount to millions of dollars in assets that must be soundly invested, carefully budgeted, and responsibly spent. Many associations are employers with on-site staffs. Some are in the business of providing recreational facilities and services. Most associations are legally established as corporations, and all are in the business of providing common services to members.

How is a community association like a government?

- Community associations have certain legal authority to enforce rules and regulations and collect assessments. In this way they operate to a very limited degree like government entities. Community associations have the authority to collect assessments and to take legal action, if necessary, when members don't meet their obligations. In fact, associations have an obligation to all members to collect assessments to pay for the upkeep that ensures property value.

What makes an association a community?

- Everything associations do to bring people together and promote communications among residents builds a sense of community and makes the association a desirable place to live. These activities might include sponsoring social events, facilitating learning and organizing recreation and cultural events. Promoting quality of life is an intangible goal that all community associations should be pursuing.

FINANCES

Assessments

Those who live in community associations share common property, amenities, services, and sometimes utilities. They also share the costs of these features and pay for them through assessments.

The community association board sets the assessment level each year according to actual needs identified during the budgeting process. Budgets must cover all areas of operation and the annual contribution to reserve funds. Like your personal expenses, association expenses and your assessments are likely to increase over time. However, most associations try to avoid unjustified increases because these lead to collection problems.

Failure on the part of the association to collect assessments consistently is a serious financial mistake. Unpaid assessments may force the association to cut back on services or raise assessments for those who do pay their fair share. A downward trend can develop, causing residents to become unhappy with the state of the property or inequitable assessments, which may lead them to put their homes up for sale. In California, boards are required to give each

owner a copy of the budget. Study it carefully and ask questions. Satisfy yourself that the budget is sound.

Reserves

Reserve funds are monies put away each year for large, future expenditures such as replacing roads or roofs. The amount to be contributed each year is determined after careful study and analysis by experts called Reserve Specialists. An association's financial stability depends on well-funded reserves. They greatly reduce the likelihood of a special assessment and may provide interest income that can offset operating expenses.

Insurance

People who live in community associations need slightly different insurance than those who don't or those who rent. The community association will have a master policy that protects against losses of common property like recreation facilities, walkways, and parking lots. It will also have liability insurance to protect those who use the facilities and the officers of the association.

Although the association is responsible for insuring common property, it still affects you. For example, if the master policy is inadequate to restore the clubhouse after a fire, the members collectively will have to pay the difference. Association master policies typically do not cover unit interiors or personal possessions, so you need to have a homeowner policy that protects you against personal loss and liability. Check with an agent who specializes in community association insurance to ensure that your personal policy and the association's master policy don't overlap or leave gaps in coverage.

LEASING - RENTING

The governing documents, typically the CC&Rs and Rules & Regulations, will determine whether homeowners can lease or rent their property and may impose conditions. If you're considering leasing your unit, inform the association and ask about leasing procedures. Owners and tenants must follow the same rules. The lease should require tenants to abide by all CC&Rs and Rules & Regulations, and copies should be provided. Conversely, tenants also have the same privileges as owners – except for voting. As soon as you lease your unit, notify the association and provide the manager with a copy of the lease. This gives the association an opportunity to present the new tenant with a welcome package and an invitation to take part in community activities. Most importantly, provide the manager with your new address and phone number. As an absentee owner, you'll want the association to be able to reach you.

THE DAVIS-STIRLING COMMON INTEREST DEVELOPMENT ACT

The Davis-Stirling Act is a detailed and comprehensive part of the State of California Civil Code enacted by the legislature and is regularly updated. The Davis-Stirling Act defines the legal rights and responsibilities of both homeowners and associations. The complete text of the Davis-Stirling Act and other relevant Civil Code sections are readily available on several websites.

ASSOCIATIONS' RIGHTS AND RESPONSIBILITIES

Perhaps the greatest achievement for any association is creating and sustaining a sense of community among residents and leaders. This goal is best achieved when homeowners, non-owner residents and association leaders recognize and embrace their rights and responsibilities. These principles can serve as an important guidepost for board and committee members, community association managers, homeowners and non-owner residents.

Community leaders (directors and committee leadership) have the right to:

- Expect owners and non-owner residents to meet their financial obligations to the community.
- Expect residents to know and comply with the rules and regulations of the community and to stay informed by reading materials provided by the association.
- Expect respectful and honest treatment from residents.
- Conduct meetings in a positive and constructive atmosphere.
- Receive support and constructive input from owners and non-owner residents.
- Personal privacy at home and during leisure time in the community.
- Take advantage of educational opportunities (e.g., publications, training workshops) that are directly related to their responsibilities and as approved by the association.

Community leaders (directors and committee leadership) have the responsibility to:

- Fulfill their fiduciary duties to the community and exercise discretion in a manner they reasonably believe to be in the best interests of the community.
- Exercise sound business judgment and follow established management practices.
- Balance the needs and obligations of the community with those of individual homeowners and residents.
- Understand the association's governing documents, become educated with respect to applicable state and local laws and manage the community association accordingly.
- Establish committees or use other methods to obtain input from owners and non-owner residents.
- Conduct open, fair and well-publicized elections.
- Welcome and educate new members of the community - owners and non-owner residents alike.
- Encourage input from residents on issues affecting them personally and the community as a whole.
- Encourage events that foster neighborliness and a sense of community.
- Conduct business in a transparent manner when feasible and appropriate.
- Allow homeowners access to appropriate community records when requested.
- Collect all monies due from owners and non-owner residents.
- Devise appropriate and reasonable arrangements, when needed and as feasible, to facilitate the ability of individual homeowners to meet their financial obligations to the community.
- Provide a process that residents can use to appeal decisions affecting their non-routine financial responsibilities or property rights - where permitted by law and the association's governing documents.
- Initiate foreclosure proceedings only as a measure of last resort.
- Make covenants, conditions and restrictions as understandable as possible, adding clarifying "lay" language or supplementary materials when drafting or revising the documents.
- Provide complete and timely disclosure of personal and financial conflicts of interest related to the actions of community leaders, e.g., officers, the board and committees.

HOMEOWNERS' RIGHTS AND RESPONSIBILITIES

Homeowners have the right to:

- A responsive and competent community association.
- Honest, fair and respectful treatment by community leaders and managers.

- Participate in governing the community association by attending meetings, serving on committees and standing for election.
- Access appropriate association books and records.
- Prudent expenditure of fees and other assessments.
- Live in a community where the property is maintained according to established standards.
- Fair treatment regarding financial and other association obligations, including the opportunity to discuss payment plans and options with the association before foreclosure is initiated.
- Receive all documents that address rules and regulations governing the community association prior to purchase.
- Appeal to appropriate community leaders those decisions affecting non-routine financial responsibilities or property rights.

Homeowners have the responsibility to:

- Read and comply with the governing documents of the community.
- Maintain their property according to established standards.
- Treat association leaders honestly and with respect.
- Vote in community elections and on other issues.
- Pay association assessments and charges on time.
- Contact association leaders or managers, if necessary, to discuss financial obligations and alternative payment arrangements.
- Request reconsideration of material decisions that personally affect them.
- Provide current contact information to association leaders or managers to help ensure they receive information from the community.
- Ensure that those who reside on their property (e.g., tenants, relatives and friends) adhere to all rules and regulations.

GETTING INVOLVED

The value of your home investment and the quality of life in your community depend in large part on your community association, and the success of the association depends on you. The key to a successful community association is the support and enthusiasm of the members. Without the involvement of members like you, the association can't operate successfully.

Some options for getting involved are:

- Serve on the board
- Volunteer for a committee
- Vote
- Pay assessments on time
- Follow the rules
- Attend board meetings
- Read the association website
- Attend social functions.

ABOUT THE COACHELLA VALLEY

The Coachella Valley includes nine cities that are thriving, year-round communities, with the natural beauty and recreational amenities of a resort destination. The Coachella Valley offers big-city resources in a friendly, small-town setting. The Valley's first-class educational facilities,

healthy real estate market, varied job opportunities, safe and clean streets, plentiful parks, and wealth of shopping choices make it unique among Southern California destinations.

WHERE TO GO WITH PROBLEMS & QUESTIONS

Most questions and complaints related to the administration of the community can be addressed by the community association manager. When you have questions about rules, architectural guidelines, landscape, maintenance, and assessments, using amenities, parking, pets and noise issues, call the community association manager. A list of contact information is located on the PDCCA web site www.PDCCA.com under the **Community & Resources** tab.